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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/666,201	09/18/2003	Michael VanWinkle	2002KP279PA	8291
7590	09/07/2004		EXAMINER SMITH, RICHARD A	
Kenneth F. Pearce Attorney at Law 631 Denmark Drive Danville, KY 40422-2419			ART UNIT 2859	PAPER NUMBER

DATE MAILED: 09/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<p align="center">Office Action Summary</p>	<p>Application No.</p> <p>10/666,201</p>	<p>Applicant(s)</p> <p>VANWINKLE, MICHAEL</p>	
	<p>Examiner</p> <p>R. Alexander Smith</p>	<p>Art Unit</p> <p>2859</p>	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 6-8 is/are rejected.
- 7) ☒ Claim(s) 1-5 and 9-15 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| <p>1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)</p> <p>2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</p> <p>3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date <u>20040220</u>.</p> | <p>4) <input type="checkbox"/> Interview Summary (PTO-413)
 Paper No(s)/Mail Date. ____.</p> <p>5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</p> <p>6) <input type="checkbox"/> Other: ____.</p> |
|--|---|

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the hollow in claims 1 and 9 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Furthermore:

- (1) The drawings are sectioned into halves such that it appears to the examiner that the hollow cannot be easily shown engaging both stub axles.
- (2) Page 8, line 21 of the specification states the hollow is not shown and needs changed accordingly.
- (3) What is the dashed outline in spool 60 of figure 5 if not the hollow?

Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

2. Claims 1-5 and 9-15 are objected to because of the following informalities:

Claim 1:

- a. "said chalk line" in line 1 of subparagraph a) should start with --a-- to provide proper antecedent basis.
- b. "a hollow for engaging" in line 2 of subparagraph d) is objected to because it is unclear to the examiner as to how a non-entity such as a hollow can engage stub axles.
- c. "the outward most portion" in subparagraph j) should start with --a-- to provide proper antecedent basis.

Claim 9:

- a. "said chalk line" in line 1 of subparagraph a) should start with --a-- to provide proper antecedent basis.
- b. "a hollow for engaging" in line 2 of subparagraph d) is objected to because it is unclear to the examiner as to how a non-entity such as a hollow, cavity, gap or space can engage stub axles.
- c. "the outward most portion" in subparagraph j) should start with --a-- to provide proper antecedent basis.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. 3,438,595 to Brown et al. in view of U.S. 4,773,162 to Lin.

Brown et al. discloses a method comprising: a) attaching said chalk line (23) to a spool (20); b) coupling a first side of said spool with a first stub axle (figure 1, the axle is unmarked and adjacent to hollow 60) said first stub axle being contained within a spool compartment; c) coupling a second side of said spool with a second stub axle (is unmarked and adjacent to felt washer 70), said second stub axle being contained within said spool compartment and positioned opposite said first stub axle; d) providing an outward opening in said spool compartment through which said chalk line travels (at 28 or through felt pad 26); f) positioning a chalk reservoir proximate said outward opening of said spool compartment (the entire enclosure 18 which surrounds the spool); g) enclosing said spool compartment and said chalk reservoir in a housing, said housing further comprising: g) i) an exit opening through which said chalk line passes (at 28); g) ii) an aperture for filling said chalk reservoir (via 24); i) supplying chalk to said chalk reservoir; and j) pulling said chalk line through said exit opening for a distance.

Brown et al. does not teach e) gearing said spool to engage a drive; g) iii) a switch for activating said drive; h) linking said switch to said drive; k) engaging said switch; and l) battery powering said drive to reel in said chalk line for as long as said switch is engaged.

Lin discloses a method of automatically reeling in a chalk line having the steps of e) gearing said spool to engage a drive (via 21); g) iii) a switch for activating said drive (column 2, lines 13-15, switch is unmarked and shown in figure 3 not 4); h) linking said switch to said drive; j) pulling said chalk line through said exit opening for a distance, k) engaging said switch; and l) battery powering said drive to reel in said chalk line for as long as said switch is engaged (column 2, lines 27-32). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the method, taught by Brown et al., to include the motor driven method steps, taught by Lin, in order to allow the user to quickly retract the chalk line.

5. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brown et al. and Lin as applied to claim 6 above, and further in view of U.S. 5,444,919 to Alves.

Brown et al. and Lin together teach all that is claimed as discussed in the above rejection of claim 6 except for manually agitating said chalk line, after said chalk line has been pulled through said exit opening for said distance and prior to engaging said switch.

Alves discloses manually agitating said chalk line, after said chalk line has been pulled through said exit opening for said distance and prior to engaging said switch (via snapping the line as disclosed in column 6, lines 4-22) in order to transfer the chalk from the line to the surface to be marked. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the method, taught by Brown et al. and Lin, to include

Art Unit: 2859

agitating the chalk line after being pulled out and prior to engaging the switch, as taught by Alves, in order to transfer chalk from the chalk line to the surface being marked.

6. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brown et al. and Lin as applied to claim 6 above, and further in view of U.S. 5,743,021 to Corcoran.

Brown et al. and Lin together teach all that is claimed as discussed in the above rejection of claim 6 except for the step of recharging said battery.

Corcoran discloses a device with method wherein the housing includes rechargeable batteries (170), a recharging circuit (172), and a connection (50) to an outside power source in order to recharge the battery. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the device and method, taught by Brown et al. and Lin, to include the step of recharging the battery, as taught by Corcoran, in order to reduce operational costs by reducing the need to purchase and install fresh batteries.

Allowable Subject Matter

7. Claims 1-5 and 9-15 would be allowable if rewritten to overcome the claim objections set forth in this Office Action.

Art Unit: 2859

8. As allowable subject matter has been indicated, applicant's reply must either comply with all formal requirements or specifically traverse each requirement not complied with. See 37 CFR 1.111(b) and MPEP § 707.07(a).

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure. The prior art cited in PTO-892 and not mentioned above disclose related apparatus and methods.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to R. Alexander Smith whose telephone number is 571-272-2251. The examiner can normally be reached on Monday through Friday from 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F. Gutierrez can be reached on 571-272-2245. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2859

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'R. Alexander Smith', with a long, sweeping horizontal stroke extending to the right.

R. Alexander Smith
Examiner
Technology Center 2800

RAS
August 31, 2004